

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

IN RE: **Rusty Travis Hays**
Sarah Joanne Hays
Debtor(s)

Case No.
Chapter 13 Proceeding

DEBTOR(S)' CHAPTER 13 PLAN **AMENDED**
AND MOTIONS FOR VALUATION AND LIEN AVOIDANCE

Plan Summary

- A. The Debtor's Plan Payment is scheduled at \$300.00 Monthly Pay Order, Direct Pay for 60 months. The gross amount to be paid into the plan is \$18,000.00.
- B. The Plan proposes to pay all allowed priority, special class and secured claims and approximately 12% of the unsecured allowed claims. THIS PLAN DOES NOT ALLOW CLAIMS. You must file a proof of claim to receive distributions under any plan. Other than adequate protection payments, disbursements will begin after entry of an order of confirmation of the plan.
- C. Value of non-exempt assets \$0.00.
- D. Current monthly income \$5,555.23, - expenses \$5,256.00 = available for Plan \$299.23.
- E. The total amount to be paid into the Plan shall be increased for tax refunds as set forth in the Standing Order for Chapter 13 Case Administration in this Division. These additional receipts shall be disbursed according to the provisions of the Plan. IRS or Debtor(s) are directed to forward refund to the Trustee.

Special Plan Provisions

attorney fees

Attorney fees to be disbursed \$500 for initial disbursement and \$250 each month thereafter until all fees are paid in full.

Plan Provisions

I. Vesting of Estate Property

Upon confirmation of the plan, all property of the estate shall vest in the Debtor(s), and shall not remain as property of the estate subject to the automatic stay of 11 U.S.C. §362.

II. Executory Contracts/Unexpired Leases/Contracts for Deed

Pursuant to 11 U.S.C. § 1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to assume the following executory contracts, if any:

Creditor Name	Description of Contract	Election	In Default
(None)			

Pursuant to 11 U.S.C. § 1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to reject the following executory contracts, if any:

Creditor Name	Description of Contract	Election	In Default
(None)			

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Continuation Sheet # 1

III. Specific Treatment for Payment of Allowed Claims

1. DIRECT PAYMENTS BY DEBTOR TO CREDITORS; SURRENDER OF COLLATERAL

A. Debtor shall pay the following creditors directly:

Creditor Name	Remarks	Debt Amount	Monthly Payment
Qualtrust Federal Cu		\$22,601.00	\$583.00
Svcd By C1fs		\$12,411.00	\$377.00

B. Debtor shall surrender the following collateral:

Creditor Name / Collateral Surrendered	In Full Satisfaction (Yes/No)	Debt Amount

C. Creditor's Direct Communication With Debtors

Creditors whose claims are scheduled to be paid directly by the debtor(s), including creditors with claims secured by real property or vehicles, are authorized to send monthly statements to the debtor(s). They are also authorized to communicate directly with the debtor(s) in response to a debtor's questions about monthly payments, escrow accounts, account balances, increases in monthly payments, and other routine customer service inquiries.

2. PAYMENTS BY TRUSTEE

A. Administrative Expenses (including Attorney's fees)

The Trustee may receive up to 10% of all sums disbursed, except on any funds returned to the debtor.

Creditor	Estimated Amount of Debt	Monthly Payment Amount
Fears & Nachawati Law Firm	\$1,175.00	Month(s) 1-5 Pro-Rata

B. Ongoing Mortgage Payments

The Trustee shall pay all post-petition monthly mortgage payments on claims against real property that were delinquent on the petition date ("Ongoing Mortgage Payments"). The Ongoing Mortgage Payments will be in the amount stated in the allowed proof of claim or as fixed by Court order. If the debtor makes a Plan payment that is insufficient for the Trustee to disburse all Ongoing Mortgage Payments required below, such payments will be disbursed in the order listed below. The Trustee shall hold debtor payments until a sufficient amount is received to make a full Ongoing Mortgage Payment. The debtor shall provide to the Trustee all notices received from Mortgage Creditors including statements, payment coupons, impound and escrow notices, default notifications, and notices concerning changes of the interest rate on variable interest rate loans. The automatic stay is modified to permit Mortgage Creditors to issue such notices. Changes to the monthly Ongoing Mortgage Payment or the addition of post-petition mortgage fees and charges shall be effectuated pursuant to the *Standing Order Relating to Ongoing Mortgage Payments in Chapter 13 Cases in the Austin Division*.

Mortgage Creditor / Property Address	Monthly Mortgage Payment (proof of claim controls)	Monthly Late Charge	Interest Rate	Payment Due Date	Paid by Trustee OR Paid Direct by Debtor (select one)
Citimortgage Inc 16325 Edgemere Drive, Pflugerville, TX 78660	\$898.00	0%	0%	0%	Direct

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Continuation Sheet # 2

C. Secured Claims - Mortgage Arrearage, Real Property

The Plan will cure pre-petition arrearage claims pursuant to the payment schedule set forth below. The allowed arrearage claim will be the amount of the allowed proof of claim or as fixed by court order.

Creditor / Property Address / Description of Collateral	Estimated Claim	Mo. Pmt or Method of Disbursement	Interest Rate (if applicable)	Other Remarks
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D. Secured Claims - Personal Property; Adequate Protection Payments; MOTIONS TO VALUE COLLATERAL

The Trustee shall pay allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the full amount of the claim, as specified below, plus interest thereon at the rate specified in this Plan. FAILURE OF THE SECURED CREDITOR TO OBJECT TO THE PROPOSED VALUE WILL BE DEEMED ACCEPTANCE OF THE PLAN UNDER SECTION 1325(a)(5)(A). Except for secured claims for which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section III(2)(F).

In the first disbursement following the filing of a claim by a creditor holding an allowed claim secured by personal property, the Trustee shall commence making adequate protection payments in the amount set out below, unless otherwise ordered by the Court. Such payments shall cease upon confirmation of the plan.

Creditor/Collateral	Adequate Protection Payment	Other Treatment/Remarks
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The Debtor moves to value collateral described below in the amounts indicated. The Debtor(s) declares, under penalty of perjury, that the foregoing values as stated in the above Motion and the Plan for the secured debt are true and correct and to the best of their knowledge represent the replacement value, pursuant to Section 506(a)(2), of the assets held for collateral.

/s/ Rusty Travis Hays

Rusty Travis Hays, Debtor

/s/ Sarah Joanne Hays

Sarah Joanne Hays, Joint Debtor

Objections to Valuation of collateral proposed by this plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the plan. Following confirmation of the plan, monthly payments shall be made as follows:

Creditor / Collateral	Est. Claim	Value of Collateral	Monthly Payment	Interest Rate	Pay Value of Collateral (OR) Pay Full Amount of Claim (select one)
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Secured creditors shall retain their liens on the collateral which is security for their claims until the earlier of the payment of the underlying debt determined under non-bankruptcy law, or discharge under 11 U.S.C. Section 1328. In addition, if this case is dismissed or converted without completion of the plan, such liens shall also be retained by the creditors to the extent recognized by applicable non-bankruptcy law.

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Continuation Sheet # 3

E. Priority Creditors

Creditor	Estimated Amount of Debt	Payment Method 1. Before 2. After 3. Along With Secured Creditors	Remarks

F. General Unsecured Creditors, [including claims from rejection of contracts, leases and contracts for deed]. Unless otherwise provided below, payments to creditors with allowed general unsecured claims shall be made on a pro rata basis as funds become available after payment of other creditors. It is estimated that distribution to the general unsecured creditors will commence in the 5th month of the Plan.

G. Cure claims on Assumed Executory Contracts, Contracts for Deed & Leases:

Creditor	Estimated Amount of Debt	Monthly Payment or Method of Disbursement	Remarks

Totals:

Administrative Claims	<u>\$1,175.00</u>
Arrearage Claims	<u>\$0.00</u>
Secured Claims	<u>\$0.00</u>
Priority Claims	<u>\$0.00</u>
Unsecured Claims	<u>\$125,540.00</u>
Cure Claims	<u>\$0.00</u>

H. Supplemental Plan Provisions

(a) **MOTION TO AVOID LIENS UNDER 11 U.S.C. § 522(f)**

Debtor moves to avoid the following liens that impair exemptions. Objections to Lien Avoidance as proposed in this plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the plan. (Debtor must list the specific exempt property said lien impairs and the basis of the lien, i.e. judicial, nonpurchase-money security interest, etc.)

Creditor / Property subject to lien	Amount of Lien to be Avoided	Remarks

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Continuation Sheet # 4

IV. General Information

NOTICE: Local Rule 3002 provides, in part:

"Every Creditor filing a Proof of Claim in all cases shall transmit a copy with attachments, if any, to the Debtor's Attorney (or the Debtor if the Debtor is pro se) and the Trustee appointed in the case."

Any special concerns of a creditor may justify attendance at the Meeting of Creditors and such other action as may be appropriate under the circumstances. The deadline for the filing of objections to confirmation is ten days prior to the confirmation hearing.

Respectfully submitted this date: 12/29/2010.

/s/ Rusty Travis Hays

Rusty Travis Hays
16325 Edgemere Drive
Pflugerville, TX 78660
(Debtor)

/s/ Sarah Joanne Hays

Sarah Joanne Hays
16325 Edgemere Drive
Pflugerville, TX 78660
(Joint Debtor)

/s/ Joshua S. Childress

Joshua S. Childress
4925 Greenville Ave.
Suite 715
Dallas, Texas 75206
Phone: (214) 890-0711 / Fax: (214) 890-0712
(Attorney for Debtor)

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Sarah Joanne Hays
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CHAPTER 13

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on December 29, 2010, a copy of the attached Chapter 13 Plan, with any attachments, was served on each party in interest listed below, by placing each copy in an envelope properly addressed, postage fully prepaid in compliance with Local Rule 9013 (g).

/s/ Joshua S. Childress

Joshua S. Childress
Bar ID:24071078
Fears & Nachawati Law Firm
4925 Greenville Ave.
Suite 715
Dallas, Texas 75206
(214) 890-0711

Atty Gen of Texas
PO Box 659791
San Antonio, TX 78265-9941

Chase
xxxxxxxxxxxx4189
Po Box 15298
Wilmington, DE 19850

Discover Bank/glelsi
xxxxx1312
2401 International Ln
Madison, WI 53704

Bank Of America
xxxxxxxxxx9129
Po Box 17054
Wilmington, DE 19850

Citimortgage Inc
xxxxxx4449
Po Box 9438
Gaithersburg, MD 20898

Dsbnk/gleksi
xxxxxxxxxxx1312
2401 International Ln
Madison, WI 53704

Capital One, N.a.
xxxxxxxxxxxx8538
Bankruptcy Dept
PO Box 5155
Norcross, GA 30091

Deborah B Langehennig
Barton Creek Plaza II, Suite 320
3801 Capital of Texas Highway South
Austin, TX 78704

Educational Credit Management
xxxxxxxxxxxx0001
PO Box 9500
Wilkes Barre, PA 18773-9500

Carecr/gemb
xxxxxxxxxxxx9009
Attn: Bankruptcy
PO Box 103104
Roswell, GA 30076

Dell Financial Services
xxxxxxxxxxxxxx3004
Attn: Bankruptcy Dept.
PO Box 81577
Austin, TX 78708

Gembppbycr
xxxxxxxxxxxx8585
Attention: GEMB
PO Box 103104
Roswell, GA 30076

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Joint Debtor

CHAPTER 13

CERTIFICATE OF SERVICE
(Continuation Sheet #1)

Gembppbycr xxxxxxxxxxxx8232 Attention: GEMB PO Box 103104 Roswell, GA 30076	Rusty Travis Hays 16325 Edgemere Drive Pflugerville, TX 78660	Wfnnb/ny&c xxxxx0790 Po Box 182789 Columbus, OH 43218
Hsbc Bank xxxxxxxxxxxx6050 ATTN: BANKRUPTCY PO BOX 5253 Carol Stream, IL 60197	Svcd By C1fs xxxxxxxxxxxx2371 Po Box 91614 Mobile, AL 36691	
Hsbc/nautl xxxxxxxxxxxx1060 Pob 15521 Wilmington, DE 19805	Target xxxxx0609 PO Box 59317 Minneapolis, MN 55459	
Hsbc/rmstr xxxxxxxxxxxx7103 Po Box 15524 Wilmington, DE 19850	Texas Workforce Commission 101 E, 15th St Austin, TX 78778	
Mohela xxxxxxxxxxxxxx0001 633 Spirit Dr Chesterfield, MO 63005	Us Dept Of Education xxxxxx4641 Attn: Borrowers Service Dept PO Box 5609 Greenville, TX 75403	
Mohela xxxxxxxxxxxxxx0002 633 Spirit Dr Chesterfield, MO 63005	Victoria's Secret xxxxx4462 PO Box 182124 Columbus, OH 43218	
Qualtrust Federal Cu xxxxx8150 Po Box 165448 Irving, TX 75016	Wf Fin Bank xxxxxxxxxxxx2457 Wells Fargo Financial 4137 121st St Urbendale, IA 50323	